

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In The Matter Of:

OFC DEVELOPMENT CORP,

Respondent.

**Docket No. FMCSA-2008-0190¹
(Midwestern Service Center)**

ORDER DISMISSING PROCEEDING AND CLOSING DOCKET

On July 11, 2008, the Field Administrator for the Federal Motor Carrier Safety Administration's Midwestern Service Center (Claimant) submitted a Notice of Settlement and Motion to Close Docket. Claimant and Respondent entered into a Settlement Agreement on July 10, 2008. By Order served December 23, 2008, I declined to approve the Settlement Agreement because it failed to specify which violations were being resolved by the Agreement. Claimant was directed to explain the deficiencies in the Settlement Agreement, or file an amended agreement, within 20 days.

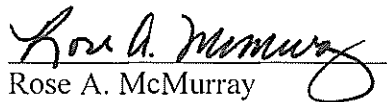
On January 9, 2009, Claimant served an amended Settlement Agreement. Section 2 of the amended agreement provides that it resolves two violations of 49 CFR 396.17(a), using a commercial motor vehicle not periodically inspected. Claimant ascribes the failure to identify these violations in the original agreement to "an isolated case of 'operator error'" which has since been rectified.

Under the amended Settlement Agreement, which was executed on January 7,

¹ The prior case number of this matter was NE-2008-0050-US0835.

2009, and adopted as a Final Order,² Respondent agreed to pay \$5,193,³ with \$7,787 of the original civil penalty amount being suspended, conditioned upon Respondent not committing any critical or acute violations in 49 CFR Part 396 within 1 year from the date of execution of the original agreement.⁴ The settlement is in the public interest, and, accordingly, it is accepted.⁵

THEREFORE, *It Is Hereby Ordered*, the amended Settlement Agreement executed January 7, 2009, is the Final Order in this matter, the proceeding is dismissed, and the docket is closed.



Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

2-23-09

Date

² Settlement Agreement, Section 10.

³ Payment was received on July 14, 2008.

⁴ The Notice of Claim proposed a civil penalty of \$12,980.

⁵ See 49 CFR 386.22.

CERTIFICATE OF SERVICE

This is to certify that on this 25 day of February, 2009, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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